



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

11A

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/518,219

12/16/2004

David J. Alessio

SP-1598.2 US

5728

20875

7590

03/15/2007

MICHAEL C. POPHAL  
EVEREADY BATTERY COMPANY INC  
25225 DETROIT ROAD  
P O BOX 450777  
WESTLAKE, OH 44145

EXAMINER

LEE, GUNYOUNG T

ART UNIT

PAPER NUMBER

2875

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

03/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/518,219

Applicant(s)

ALESSIO, DAVID J.

Examiner

Gunyoung T. Lee

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01/08/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. Applicant's amendment filed on 1/8/2007 has been entered:
  - Claims 1 and 10 have been amended;
  - New claims 17-20 have been added;
  - Claims 1-20 are pending in this application, with claims 1, 10 and 19 being independent.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

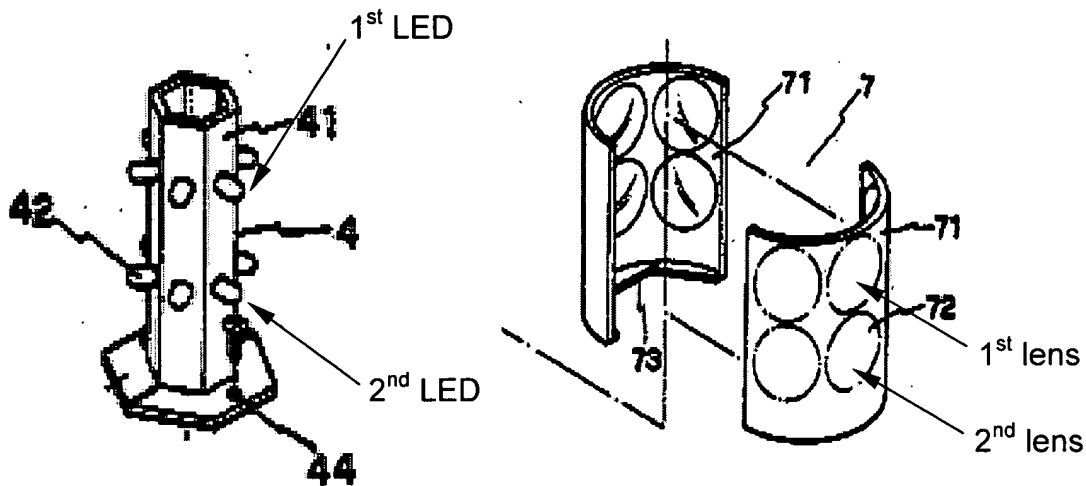
***Claim Rejections - 35 USC § 102***

3. Claims 1, 3, 7 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferng (US 5,237,490).
4. Ferng discloses a lamp having:
  - A front housing (2) and a rear housing (5) coupled to the front housing;
  - First and second light emitting diodes (LEDs) (42) located in the front housing (2);
  - The second LED (42) (as shown in the picture on page 3) is spaced from the first light emitting diode;
  - First and second magnifier lenses (72) arranged (col. 2, lines 41-43) substantially orthogonal to light paths of the first and second LEDs (41) respectively for

Art Unit: 2875

focusing first and second light beams onto a target area (consider a surface of a reflector, 22, as a target area);

- A support member (71) for supporting the first and second lenses (27) relative to the first and second LEDs (42); and
- The rear housing (5) has (Fig. 1) a battery compartment comprising a battery (58) for the LEDs (42).



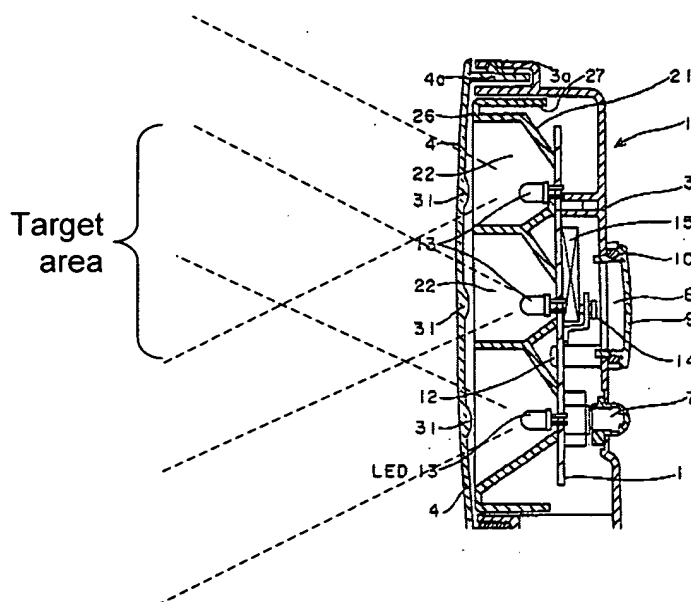
5. Claims 1-16 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (US 5,580,156).

6. Suzuki et al. disclose a portable (col. 5, lines 45-48) lighting apparatus having:

- A front housing (1) and a rear housing (2) coupled to the front housing;
- First and second light emitting diodes (LEDs) (13) located in the front housing (1);
- The second LED (13) is spaced (Fig. 3) from the first LED;

Art Unit: 2875

- First and second magnifier lenses (31) arranged (Fig. 1) substantially orthogonal to light paths of the first and second LEDs (13) respectively for focusing first and second light beams onto a target area (as shown in the following picture);
- A support/cover member (4) supporting the first and second lenses (31) relative to the first and second LEDs (13);
- The rear housing (2) has a battery compartment comprising a battery (6) for the LEDs (13);



- The supporting member (4) comprises (col. 4, lines 59-61) a substantially transparent material and (col. 4, lines 64-65) a transparent/non-reflective inner wall;
- The first and second lens (31) are (Fig. 3) (col. 4, lines 61-62) plano convex lenses and arranged (Fig. 3) substantially orthogonal to the light path of the corresponding first and second LEDs (13);

Art Unit: 2875

- A circuit board (11) (col. 3, lines 49-50) fixed to the front housing (1) and connected to the first and second LEDs (13);
- A third LED (13) displaced in the front housing (1) and providing a third light beam having (col. 8, lines 57-58) a color varied from the first and second light beams; and
- An operation system (col. 6, lines 60-61) turns on the first, second and third LEDs selectively.

7. Please note regarding claims 8 and 16, the claims have been given little patentable weight, because the claims recite intended use of the claimed invention which is met by Suzuki et al. as described above

***Claim Rejections - 35 USC § 103***

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 5,580,156) in view of Fields (US 4,797,793).

9. In regard to claim 17, Suzuki et al. disclose the invention substantially as claimed except that the portable lighting apparatus does not comprise a headband strap. Suzuki et al. disclose (col. 5, lines 45-48) that the lighting apparatus is assembled into a portable unit. Fields discloses a flashlight assembly having a headband strap (10) as a portable unit for a lighting device (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the headband strap as shown in Fields for the portable lighting apparatus of Suzuki et al., for the purpose of providing a hand free holding mechanism for the lighting apparatus, which may increase the safety/performance of the user.

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 5,580,156) in view of Sharrah et al. (US 6,012,824).

11. In regard to claim 17, Suzuki et al. disclose the invention substantially as claimed except that the operation system does not include a switch operating at plural modes/positions. Sharrah et al. disclose a portable lamp having a switch (250) operating (col. 6, lines 46-47) at plural positions/modes. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the switch as shown in Sharrah et al. for the lighting apparatus of Suzuki et al., for the purpose of providing an illumination with various intensities or colors for different circumstances and applications.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2875

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gunyoung T. Lee whose telephone number is (571) 272-8588. The examiner can normally be reached between 7:30 - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached at (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GTL  
3/9/2007



RENEE LUEBKE  
PRIMARY EXAMINER